

REMARKS

Claims 1-10 and 12-26 are currently pending in this application. Claim 11 has been canceled. Claims 1-6, 8, 9, 11-16, 20-22 and 24-26 have been amended. No new matter has been added by these amendments. Applicant has carefully reviewed the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented below.

Claim Objections

Claim 11 was objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 11 has been canceled.

Claim Rejections Under 35 U.S.C. §101

Claims 1-26 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, claims 1-15 were identified as being drawn to a method that does not produce a useful, concrete and tangible result, but rather simply a series of steps that represent a process of thought that is carried out by a care provider. Claims 16-26 were identified as being drawn to an apparatus carrying out the method of claims 1-15, but lacking sufficient structural limitations to be considered a patentably useful, concrete and tangible invention.

Applicant submits that claims 1-26 produce useful, concrete and tangible results, in as much as they provide repeatable and practical information, *i.e.*, information that is indicative of a recommended sequence of procedures for a follow-up consultation. The utility of such information is described in the specification, *e.g.*, see paragraphs [0003], [0083] and [0084].

Claim Rejections Under 35 U.S.C. §102

Claims 1-26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,438,408 (Mulligan).

Independent claim 1 relates to a method that includes recording information related to procedures performed by a care provider during a follow-up consultation with a patient having an implanted device, wherein at least some of the information is indicative of the sequence in which procedures are performed; analyzing the information; and based at least in part on the analyzing, presenting information indicative of a recommended sequence of procedures for a subsequent follow-up consultation.

Independent claims 16 and 26 relate to apparatuses that provide for the recording or storage of information related to procedures performed by a care provider during a follow-up consultation with a patient having an implanted device, including information indicative of the sequence in which procedures are performed; analysis of the procedural information; and a recommended sequence of procedures based at least in part on the analysis of the procedural information.

Mulligan discloses an implantable device that stores patient data and allows for the obtaining of the stored data by a telemetry uplink. The data may then be reviewed by a physician to assess the heart failure state of the patient, determine the appropriateness of the therapy, and prescribe therapy for a period of time. See column 9, lines 19-30. Mulligan does not disclose recording or analyzing information indicative of a sequence of procedures performed by a physician during the described utilization of the implantable device. Mulligan also fails to disclose presenting a recommended sequence of procedures based on an analysis of a sequence of procedures.

In view of the foregoing, Applicant submits that Mulligan fails to disclose the combinations of elements and features recited in independent claims 1, 16 and 26, including at least, the recording and analyzing of information indicative of a sequence of procedures performed by a care provider during a follow-up consultation with a patient having an implanted device, and the presenting of information indicative of a recommended sequence of procedures for a subsequent follow-up consultation. Accordingly, Applicant requests reconsideration of the §102 rejections of independent claims 1, 16 and 26 and their respective dependent claims.

Claims 1-6, 9-22 and 24-25 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,405,087 (Snell).

As indicated above, independent claims 1 and 16 provide for the recording of information related to procedures performed by a care provider during a follow-up consultation with a patient, wherein at least some of the information is indicative of the sequence in which procedures are performed; the analyzing of the information; and based at least in part on the analyzing, the presenting of information indicative of a recommended sequence of procedures for a subsequent follow-up consultation.

Snell discloses a system for storing parameters defining the expected performance of an implantable medical device. The implanted device generates performance data indicative of the interaction between the device and a patient's heart in view of the expected performance and the system displays performance data. With this data in hand, medical personnel performing a follow-up check will be advised as to the performance of the device and may, if necessary, reprogram the device. See column 2, lines 15-35 and column 9, lines 28-34. Snell does not disclose the storage or recording of information indicative of a sequence of procedures performed by medical personnel during the described set up of the implantable device and subsequent obtaining of, and evaluation of performance data. Snell also fails to disclose presenting a recommended sequence of procedures based on an analysis of a sequence of procedures.

In view of the foregoing, Applicant submits that Snell fails to disclose the combination of elements and features recited in independent claims 1 and 16, including at least, the recording and analyzing of information indicative of a sequence of procedures performed by a care provider during a follow-up consultation with a patient having an implanted device, and the presenting of information indicative of a recommended sequence of procedures for a subsequent follow-up consultation. Accordingly, Applicant requests reconsideration of this §102 rejections of independent claims 1 and 16 and their respective dependent claims.

Claims 1-3, 5-6 and 8-26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application No. 2003/0171789 (Malek).

As stated above, independent claims 1, 16 and 26 relate to methods and apparatuses that provide for the recording of information related to procedures performed by a care provider during a follow-up consultation with a patient, including information indicative of the sequence in which procedures are performed; the analyzing of the procedural information; and the presenting of a recommended sequence of procedures based at least in part on the analysis of the information.

Malek discloses an implantable medical device that may be programmed using a two-phase process including a screening phase and an implant phase. During the screening phase, a physician programmer and a patient programmer may be used to roughly test the parameters of stimulation to determine if the treatment therapy is efficacious. During the implant phase, the same programmers may be used to fine tune the stimulation parameters. See abstract. Malek does not disclose the storage or recording of information indicative of a sequence of procedures performed by either the physician or patient during the described set up of the implantable device. Malek also fails to disclose presenting a recommended sequence of procedures based on an analysis of a sequence of procedures.

In view of the foregoing, Applicant submits that Malek fails to disclose the combinations of elements and features recited in independent claims 1, 16 and 26, including at least, the recording and analyzing of information indicative of a sequence of procedures performed by a care provider during a follow-up consultation with a patient, and the presenting of information indicative of a recommended sequence of procedures for a subsequent follow-up consultation. Accordingly, Applicant requests reconsideration of this §102 rejections of independent claims 1, 16 and 26 and their respective dependent claims.

Claim 16 was rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2004/0176979 (Gottlieb).

Claim 16 falls within 35 U.S.C. §112, paragraph 6. See MPEP § 2181.
Accordingly, Applicant requests reconsideration of this §102 rejection of claim 16.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicant's claims 1-10 and 12-26 is believed to be in order.

Respectfully submitted,

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Date



David S. Sarisky
Attorney for Applicant
Reg. No. 41,288
818-493-3369

CUSTOMER NUMBER: 36802